

REMARKS

Reconsideration and allowance of the captioned application in view of the foregoing amendments and the remarks that follow is respectfully requested. These comments are intended to advance the case to issue without delay. The claims in the application were 2, 3, 5-10, and 12-24. By this amendment, no claims are added or cancelled. Accordingly, the claims in the application remains to be claims 2, 3, 5-10, and 12-24.

Claim 1 has been amended deleting the language "liquid or soft solid" which had been provided by previous amendment. Applicant had previously made this amendment to overcome cited prior art. The Examiner has not been in agreement to this point as applicant and Examiner appear to have different interpretations of the cited prior art. Applicant has now deleted this language without prejudice as applicant provides yet an additional ground for overcoming the cited art. Applicant reserves the right to add this language in a later amendment or related application and pursue arguments related thereto.

Claim 2 has been amended to replace the phrase "characterised in that" with the term "wherein" to more clearly define the claimed subject matter.

Applicant wishes to thank the Examiner for withdrawal of the previous rejections under 35 USC §112 in view of applicant's amendment filed in May, 2003.

Claims 2, 3, 5-10, and 12-23 remain rejected under 35 USC §103(a) as being unpatentable over Vu on record for the reasons on record as well as the reasons in the Office Action dated July 24, 2003. New claim 24 has also been added to this rejection. This rejection is respectfully traversed.

Vu is cited as teaching an anti-microbial cosmetic composition comprising an antiperspirant, a transition metal chelator (DTPA) and solvent. Vu is said to teach that the composition can comprise a bactericide. It is also stated that it is inherent that a cosmetic composition is applied topically.

In the Office Action it is further recited that the gel sticks disclosed in Vu are not necessarily hard. It is noted that Vu's composition is mainly liquid (70-95% liquid vehicle) and that therefore Vu's composition is not too hard, but relatively soft. Applicant previously argued that Vu discloses making sticks that have "sufficient hardness". Applicant, for the reasons previously given are of the position that Vu is directed to sticks which are not liquids or soft solids. However, this difference in interpretation of this portion of the Vu reference is mute since, as previously stated in this amendment, applicant has amended the claims to not be limited to liquids and soft solids as applicant provides herein additional ground for overcoming the cited art.

The claims of the present invention are restricted to chelators that are micro-molar active. The Examiner takes the position on page 3 of the Office Action that both the prior art and instant invention teach DTPA as a chelator. Further, it is stated that in terms of micro-molar active, applicant provides no unexpected data for micro-molar amounts of the chelator and that applicant must show unexpected data for claimed amounts (micro-molar). The Examiner's response to applicant's previous arguments appears to indicate that the Examiner understands applicant's argument being that a benefit is provided by using the chelators in soft solid forms wherein Vu teaches using these in products which are in stick form. The Examiner also states that applicant has not provided support for not defining gel sticks as soft solids.

Applicant argument with regard to the use of micro-molar actives does not hinge on either the amount of the chelator or the form of the product. While arguments may be set forth with regard to one or both of these, it is not the point of the argument being put forth by applicant at this time.

Applicant has unexpectedly found that particular chelators (i.e. those which are micro-molar active) give a very anti-microbial effect in an antiperspirant composition. The Examiner apparently has misinterpreted what applicant has called "micro-molar active". The Examiner has apparently interpreted the phrase

"micro-molar active" as "micro-molar amount". Rather, by "micro-molar active", it is meant chelators that "are able to significantly inhibit the growth of a relevant micro-organism when present, in a medium containing said micro-organism, at a concentration of 3×10^{-6} mol.dm⁻³ or less" wherein "inhibition is considered significant when growth of the relevant micro-organism on a supporting medium can be reduced by at least 30%" (see page 8, lines 19 to page 9, line 2 of the specification). Accordingly, the term "micro-molar active" is not in reference to an amount of the chelator, but rather hinges on the effectiveness of the chelator in inhibiting the growth of a relevant micro-organism. Examples, without limitation, of such chelators that satisfy these criteria for being a "micro-molar active" are exemplified in Table 2 on page 28 of the specification.

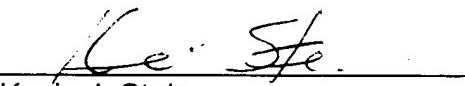
Vu discloses the use of chelators as improving color and clarity and does not contemplate their synergistic enhancement of the anti-microbial performance of the antiperspirant salt. Applicant has unexpectedly found that antiperspirant salts together with particular chelators (i.e. ones that are micro-molar active) give a very anti-microbial effect. There is a certain synergy that is surprising when one considers that antiperspirant salts are cationic and chelators are anionic. One would expect complexation and a loss of performance (see page 6, lines 10-14 of the specification). Accordingly, applicant has identified particular chelators (i.e. those that are 'micro-molar active') that have this property. Vu does not disclose or teach that the use of these particular chelators in antiperspirant compositions provides enhanced efficacy. This benefit could not have been predicted from Vu, where chelating agents in general were used to attain a different benefit (color and clarity) (see Vu, column 5, lines 8-9). Applicant has not merely found a range that provided unexpected results but actual components in an antiperspirant product that provide unexpected results in the form of enhanced anti-microbial performance.

Thus, applicant respectfully submits that the claims of the present invention are patentable over Vu and the withdrawal of this rejection under 35 USC §103(a) is respectfully requested.

In light of the above amendments and remarks, it is respectfully requested that the application be allowed to issue.

If a telephone conversation would be of assistance in advancing the prosecution of the present application, applicants' undersigned attorney invites the Examiner to telephone at the number provided.

Respectfully submitted,



Kevin J. Stein
Registration No. 47,966
Attorney for Applicant(s)

KJS/sa
(201) 840-2394